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COMMISSION ON HUMAN RIGHTS

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SUMMARY RECORD OF THE 29th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 27 March 1997, at 3 p.m.

Chairman: Mr. SOMOL (Czech Republic)

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The meeting was called to order at 3.05 p.m.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

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(agenda item 8) (continued) (E/CN.4/1997/4 and Add.1-2 and Corr.1 and Add.3, 7 and Add.1-3 and Corr.1, 25 and Add.1, 26, 27 and Add.1, 28, 29 and Add.1, 30, 31 and Add.1, 32-34, 55 and Corr.1, 103 and 104; E/CN.4/1997/NGO/3, 4, 7, 8, 20, 22, 23 and 29; E/CN.4/Sub.2/1996/16, 17, 19 and Corr.1 and Add.1; A/51/465 and 561)

1. Ms. JOICE (International Progress Organization) said that, in countries where levels of education and awareness were low, people in detention were more likely to be mistreated. Detainees were often tortured to extract confessions so that police officers could prove that they were solving crimes. The fault lay with a system lacking adequate investigative resources and an efficient judicial system. Overcrowding in prisons, slow judicial processes and corruption encouraged violation of the human rights of detainees. In many developing countries, people were detained without trial for periods longer than those to which they would have been sentenced had they been convicted.

2. While torture and abuse of human rights by State authorities were identifiable and often punishable, there were also invisible forms of torture, detention and imprisonment which were determined by cultural values. Depriving women of the right to choose their spouses and forcing them to spend their lives with men they loathed was far more traumatic than imprisonment.

3. The imprisonment of the mind, particularly in the case of children, was the worst kind of torture since it warped the victims' personalities and gave birth to a nation of adults with distorted values. Education was intended to liberate, not to imprison but in some schools in Pakistan, for instance, children were kept chained and deprived of any modern learning. Torture inflicted with instruments left scars that could be healed; the shattering of the mind and soul was silent and far more painful.

4. The international community must set standards for the improvement of prison facilities, inspections by an enlightened judiciary and establishment of a legal structure that treated all individuals equally without regard to gender or religion. Societies in which detention and torture were a function of social and religious norms should be encouraged to adopt new practices that protected the rights of their weaker and more vulnerable members. Lastly, the

international community must censure detention and torture practised by terrorist groups and, more importantly, the States which provided such groups with a haven from which to operate.

5. Mr. FERNANDEZ (Franciscans International) said that arbitrary detention persisted in many countries, particularly where individuals had merely sought to exercise the rights proclaimed in the International Bill of Human Rights. In many cases, states of emergency had given rise to legislation violating international human rights standards, as exemplified by the anti-terrorist legislation in Colombia and Peru, where individuals had been arrested and tried for terrorism after engaging in peaceful protest or exercising their right to strike or to engage in political opposition.

6. The use of anonymous witnesses and "faceless judges", violated the right to due process. Human rights leaders in Colombia had been subjected to lengthy preventive detention under conditions that violated the Standard Minimum Rules for the Treatment of Prisoners; in some cases, the courts had eventually dropped charges against them without providing compensation.

7. The Commission should extend the mandate of the Working Group on Arbitrary Detention and publish the report of the visit by the Special Rapporteur on the independence of judges and lawyers to Colombia in September 1996.

8. Ms. BECKERS (African Commission of Health and Human Rights Promoters) said that the General Assembly had declared that the mass killings committed in Rwanda between April and June 1994 constituted genocide, and all Governments must fulfil their international responsibility to prosecute those suspected of that most heinous crime. The most recent report of the Special Rapporteur on the situation of human rights in Rwanda (E/CN.4/1997/61 and Add.1) recommended the establishment of a fund to assist the victims of that genocide, yet the international community appeared to have forgotten the survivors or chosen to ignore them. The Government of Rwanda was working with United Nations agencies to reconstruct the country, but no specific programme targeted the survivors and victims of the war, who required medical, psychological and social assistance, housing, education, justice and reparation.

9. Ms. WEI Shanshan (Transnational Radical Party) said that there were situations in which the exercise of the right to freedom of expression and association led to arbitrary detention, the Republic of Korea and China being cases in point. Her own brother, Wei Jingsheng, was a political prisoner in China who had been subjected to incommunicado detention and convicted of conspiracy to subvert the Government for offences such as publishing anti-government articles abroad, raising money for victims of political persecution and their families and criticizing violations of human rights in Tibet and Qinghai. He was currently serving a 14-year sentence, his health was deteriorating steadily, and all those who had appealed to the Chinese authorities on his behalf had themselves been detained.

10. Many dissidents were sentenced to re-education through labour, which had been judged inherently arbitrary by the United Nations Working Group on Arbitrary Detention in 1993, without benefit of counsel or a fair trial. The Chinese authorities always asserted that there were no political prisoners in China, referring to them as counter-revolutionaries.

11. The Working Group on Arbitrary Detention and the Special Rapporteur on freedom of opinion and expression must continue their investigations into China and other countries with similar practices. The Commission should call upon all such Governments to give a clear definition of the term "endangering State security" and to release all those who had been victimized through abuse of that term and should denounce Governments which used the legal system as a tool of oppression.

12. Mr. HOLST (Denmark), having endorsed the statement by the representative of the Netherlands on behalf of the European Union, said he wished to draw the Commission's attention to the urgent need for action to ensure effective implementation of the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment, which the General Assembly had established in its resolution 37/194. Those principles were designed to ensure that the medical treatment of prisoners was of the same standard as that of non-prisoners, and that health-care personnel dealing with prisoners did not participate in practices that involved torture or other cruel, inhuman or degrading treatment but unfortunately, 15 years after the adoption of that resolution, there were many examples of individual health professionals acting contrary to the Principles.

13. Physicians had been directly involved in torture or surgical mutilation while other areas of concern were the removal of organs for transplant from prisoners condemned to death, the practice of classifying violent death in detention as being due to natural causes, and the certification of prisoners as fit to be treated or punished in a cruel, inhuman or degrading way. Moreover, it could be assumed that the majority of such practices went unreported. One of the main causes of that regrettable situation was that many health-care professionals were afraid of reprisals, against themselves or their families.

14. There were very few cases of sanctions being applied, even for what the General Assembly had called a gross contravention of medical ethics and such sanctions were more likely to be applied by professional associations than by public authorities. The World Medical Association had called on all its national associations to support their members who stood up for established principles of medical ethics and to sanction those found guilty of involvement in torture. However, that was often difficult for them to do, especially in countries ruled by repressive regimes that practised or tolerated torture. Even after the fall of repressive regimes, legislation all too often afforded impunity to the perpetrators of human rights violations.

15. By adopting the Principles of Medical Ethics, the General Assembly had enlisted the help of health professionals to protect the human rights of prisoners and detainees, but had failed to offer those professionals

protection when they refused to participate in inhuman practices and had also failed to stress the duty of public authorities to respect their refusal. Moreover, it had not explicitly stated that the right to medical confidentiality must also be maintained in the case of prisoners. He therefore invited the Commission and the High Commissioner for Human Rights to seek ways to ensure, through legislation and administrative practice, full respect for Principles, and to involve health professionals in those endeavours as part of a more proactive United Nations human rights policy.

16. Mr. ESPINOLA SALGADO (Brazil) said that agenda item 8, which concerned human rights violations common to both developed and developing countries, lent itself less than other agenda items to charges of politicization and selectivity and concerned a field in which international cooperation had a major role to play.

17. His Government appreciated the objectivity and fairness with which the Special Rapporteur on questions relevant to torture, was carrying out his duties. It endorsed the Special Rapporteur's view that his mandate included authorization to consider cases of corporal punishment resulting from legal provisions or executive decrees and that article 1 of the Convention against Torture should not be interpreted as condoning such practices.

18. It considered that the initiative of an optional protocol to the Convention against Torture establishing a mechanism for visits to places of detention was an important step, on the understanding that States would give their consent to such visits by ratifying or adhering to the protocol and that subsequent consultations should concern only the modalities of individual visits.

19. While the Working Group on Arbitrary Detention had contributed to a solution in many cases, his delegation shared the concern expressed by other delegations with regard to the way in which the Working Group's mandate was being interpreted. The Working Group must be allowed a certain flexibility, but it was neither a supranational jurisdiction nor a treaty body, and he hoped that, in the future, it would avoid the use of language that might be misinterpreted.

20. The Brazilian National Congress had passed an act recognizing as dead the persons who had disappeared in connection with political activities during the period 1961-1979. The act contained a list of persons whose deaths were officially recognized, provided for the inclusion of others in that list and authorized compensation calculated on the basis of the victims' expected lifetime at the moment of disappearance. As a result of action under that act, the Working Group on Enforced of Involuntary Disappearances had declared clarified the majority of the outstanding cases of disappearance in Brazil.

21. A bill currently under consideration by Congress would, if approved, criminalize torture and establish a minimum penalty of two years' imprisonment for that offence and 8 to 16 years in cases where death had resulted therefrom.

22. With regard to conditions of detention, in addition to the establishment of a National Penitentiary Fund and redefinition of Government policy, the National Human Rights Programme was considering reactivation of the penal computerized system (INFORPEN) in order to speed up trials and avoid continued imprisonment after sentences had been served, supporting emergency programmes aimed at correcting errors in the prison system and improving conditions of detention, encouraging implementation of the Penal Executions Law with regard to open and half-open prison regimes, and building new penal establishments.

23. Mr. RINCHHEN (Bhutan) said that his country had been first to invite the Working Group on Arbitrary Detention to consider the case of an individual in situ. The Working Group had declared the case not arbitrary and at the request of his Government, had subsequently paid a follow-up visit to assess the implementation of its recommendations on various areas of the justice system. Its satisfaction with the Government's actions was expressed in its reports (E/CN.4/1997/4/Add.1 and 3).

24. His Government was grateful to the Working Group for its valuable advice and objectivity, as well as its sensitivity to the cultural traditions that invariably played a role in forming the jurisprudence of a society. Its only complaint was that the Working Group referred to the people in the refugee camps in Nepal as Bhutanese, although their nationality was the subject of discussion between the Governments of Nepal and Bhutan. Substantive progress had been made and Bhutan remained committed to working closely with Nepal to resolve the humanitarian problem of the people concerned.

25. His Government was committed to enhancing the enjoyment of human rights by all sections of its people. That was why it had invited the Working Group, had undertaken a technical cooperation project with the Centre for Human Rights and maintained a close relationship with the International Committee of the Red Cross (ICRC), which advised on improvements to the penitentiary system. Cooperation and constructive dialogue between Governments and the Working Group were crucial for achieving the desired results.

26. Ms. SCHIEFERMAIR (Austria), having endorsed the statement by the representative of the Netherlands on behalf of the European Union, said that, in many States, children and juveniles were deprived of their liberty without due process and for indeterminate periods of time, often being held in abysmal physical conditions. Children, often with weak family ties or none, were vulnerable to exploitation, being used for drug smuggling or other criminal activities, and thus came into conflict with the law. Despite the array of international standards concerned with juvenile justice, practical measures for greater international cooperation were needed to ensure that such standards were implemented at the national level.

27. In that connection, her Government had taken the initiative, in cooperation with the United Nations High Commissioner for Human Rights, the United Nations Children's Fund (UNICEF) and the United Nations Crime Prevention and Criminal Justice Division, of organizing an international meeting in February 1997, attended by 30 experts from around the world and representatives of United Nations bodies. A programme of action had been elaborated to promote the effective use and application of international standards in juvenile justice.

28. Under the programme of action, it was proposed to establish a coordination panel on technical advice and assistance in juvenile justice, consisting of representatives of the Committee on the Rights of the Child, the United Nations High Commissioner for Human Rights, the Crime Prevention and Criminal Justice Programme, UNICEF, the United Nations Development Programme (UNDP) and other United Nations agencies, as well as of intergovernmental, regional and non-governmental organizations (NGOs) involved in the field of juvenile justice. Governments would benefit from project proposals and assessment for the improvement of their juvenile justice systems. Such a pooling of resources was clearly in line with the overall thrust of the reform of the United Nations system.

29. The programme of action would be submitted to the Commission on Crime Prevention and Criminal Justice in April-May 1997, and would, it was hoped, form a basis for the effective implementation of international standards at the national level. Her delegation also intended to propose that the resolution on human rights in the administration of justice should become a biennial one.

30. Mr. KUEHL (United States of America) said that torture insulted the values that every member of the Commission was pledged to keep; it degraded the torturer and the tortured alike. Yet Governments - some of them members of the Commission - looked the other way while their policemen and soldiers engaged in torture. Human rights set standards by which nations judged each other; if a nation's standing fell, it was its own doing. It was because it jailed its journalists and dissidents. Such people should be released. Their public criticism might be unpalatable, but the country would be the stronger for it in the end.

31. For one reason or another, Governments that tortured their own people were often not named in the Commission, but the world knew which Governments were guilty. No one felt sorry for such Governments, whining in self-pity, when they persisted in their torture and sham trials, trying to ignore the media and the human rights organizations brought into being by their own practices.

32. The United Nations Voluntary Fund for Victims of Torture was one of the most effective programmes sponsored by the Centre for Human Rights. His Government was proud to have contributed $1.5 million to the Fund in the current year and hoped that others would contribute also. It supported the efforts of the Special Rapporteur on questions relevant to torture and called on all members of the Commission to cooperate with him and heed his reports. It also supported the work of the Working Group on Arbitrary Detention and would strongly oppose any effort to weaken or narrow its mandate.

33. Countries that had not yet done so should ratify and accede to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The United States respected the decision of the expert member of the Working Group on Enforced or Involuntary Disappearances, Mr. Manfred Nowak, to resign his mandate regarding the special process on missing persons in the territory of the former Yugoslavia and appreciated the

dedicated efforts he had made. Lastly, he pointed out that no unusual resources or any special level of development were needed to stop torture. All that was needed was the simple will to do so.

34. Mrs. DIALLO (Observer for Senegal) said that the right not to be tortured was the sine qua non of respect for the individual. NGOs gave a voice to those suffering torture, ill-treatment, arbitrary imprisonment and the violation of their human dignity, but more than words were needed: it was time to put a stop to torture, in all its hidden forms and at every level, wherever it was found.

35. Her Government had concentrated on two aspects of the struggle against torture: prevention through education and dialogue, and rigorous implementation of the Convention, paying particular attention to the recommendations of the Committee against Torture whenever Senegal submitted a report. Dialogue was conducted by means of the Senegalese Human Rights Committee, within which NGOs could freely express their views and draw the attention of the authorities to any human rights violation. All members of the Committee had the common objective of achieving the effective implementation of the international human rights treaties. An interministerial committee had also been established to examine any allegations of violation of human rights.

36. Her Government was convinced that a State should not react to allegations of human rights violations as a slight to itself, but should seek at all times to address such allegations calmly. The interministerial committee provided a permanent focus for such concerns within the Senegalese Government.

37. Senegal had put much effort into educating judges and the police force. It proposed to extend that process, in particular the need to protect the physical and moral integrity of the individual, to the armed forces and to the medical corps, and especially to forensic pathologists. The implementation of the recommendations of the Committee against Torture was no longer the domain solely of the Ministry of Justice but also of many other ministries. All worked for the adaptation of Senegalese legislation to the provisions of international treaties.

38. While the Constitution provided that any international treaty that had been ratified could be invoked in the courts, an act had been passed specifically outlawing acts of torture. Results of inquiries into allegations of torture would be notified to the Committee against Torture. Being convinced that it was the prime responsibility of Governments to give effect to the Convention in their legislation and judicial procedures, Senegal would continue to do all in its power to remain a State subject to the rule of law.

39. Mr. WILLE (Observer for Norway) said that the rule of law, which required an equal distribution of power between the executive, the legislative and the judiciary, was an indispensable precondition for the effective protection of human rights. A fair, impartial and predictable application of all laws at all levels was fundamental to a democratic State. Agenda item 8

went to the heart of that principle and his delegation applauded the work of the special rapporteurs who had enhanced public knowledge in their fields. Sufficient resources should be allocated to enable them to fulfil their various mandates.

40. In recent years, a large number of countries had taken important steps towards democracy, often as a result of long-lasting dialogue at both the national and international levels. Multilateral forums were of paramount importance in the effort to promote human rights, to apply pressure and to build consensus. In its bilateral contacts with other countries, Norway's principal approach was to establish dialogue and to offer incentives.

41. It provided substantial support for Governments and NGOs that worked to strengthen respect for human rights through educational projects, the dissemination of information and the training of lawyers and judges. A considerable number of human rights experts, lawyers and investigators had been sent to problem areas. There had also been fruitful dialogue on matters such as the rule of law. A recent high-level meeting of Chinese and Norwegian legal experts and politicians had been useful.

42. Another aspect of the rule of law was how it was applied internationally, but there were very few mechanisms to implement international law effectively. His Government therefore strongly supported the speedy establishment of a permanent criminal court within the United Nations system. It was particularly important that grave breaches of humanitarian law, such as genocide and serious war crimes, should be subject to the jurisdiction of such a court; it was crucial that individual perpetrators should be punished in order to avoid the concept of collective guilt, which often led to ethnic hatred.

43. Lastly, he expressed his delegation's appreciation of the essential work undertaken by NGOs and human rights defenders throughout the world; their active participation in the work of the Commission was most welcome.

44. Mr. VIGNY (Observer for Switzerland) said that any consideration of the deplorable phenomenon of forced or involuntary disappearances had to recognize that a shocking 43,980 cases, each representing untold suffering and despair, remained unresolved. More than a third of such cases related to Iraq, which had not even replied to a request for a visit by the Working Group. His Government also urged India and Turkey to review their stance and to cooperate with the Working Group. It congratulated those States which had taken the step of receiving the Group. It was essential for the families of victims, that outstanding cases should be resolved. There had been 551 new cases in 28 countries in 1996 which showed that, despite the progress in some countries, the Declaration on the Protection of All Persons from Enforced Disappearance was far from having achieved its aims.

45. Arbitrary detention was a violation of much the same rights as those involved in forced disappearances, and whether it came about through the actions of the executive authority or the judicial process was immaterial. His delegation therefore strongly supported the view that to make a distinction between "detention" and "imprisonment" in the Working Group's mandate was inappropriate. The mandate should apply to all arbitrary

deprivation of freedom, whether pre-trial or post-trial. The States which practised arbitrary detention the most were precisely those which wished to limit the Working Group's mandate to pre-trial detention. He urged the Commission to renew that mandate unchanged.

46. In the case of torture, too, semantics should not be allowed to weaken human rights protection. As the Special Rapporteur on questions relevant to torture had argued, there should be an end to such punishments as flogging, stoning, amputation, branding and tattooing, despite the religious objections invoked by a small number of Governments.

47. His delegation congratulated those Governments which had cooperated with the Working Group in 1996 and appealed to Cameroon, China, India, Indonesia, Kenya and Turkey to follow suit.

48. Lastly, he urged that the draft optional protocol to the Convention be adopted with all possible speed. The Working Group had begun the second reading in 1996, but progress was still too slow and it was most regrettable that the Working Group had not been granted a double session in 1997.

49. Ms. GORDON-LENNOX (International Peace Bureau) said that the Committee of Soldiers' Mothers of Russia received over 10,000 complaints every year about physical or mental torture of conscripts. The soldiers were often afraid to report cases of such treatment for fear of even greater harassment and humiliation, because it was their officers who had subjected them to the treatment or because the violations were so cruel or shameful that they were psychologically unable to talk about them. The insanitary living conditions in military barracks were themselves inhuman, medical treatment was often refused to victims of torture, and the suicide rate in the military was rising.

50. The Commission should call on the Russian Federation to strengthen the provisions of the new criminal code on torture, request the Committee against Torture to reflect in its annual report such violations of the Convention by the Russian Federation and send a delegation to investigate reported cases of torture among conscripts in the Russian armed forces.

51. Mr. LAHCEN (International Association of Democratic Lawyers) said that Moroccan security forces were still committing grave violations of human rights in Western Sahara. People were imprisoned without due trial for expressing their opinions, the use of prolonged detention in secret centres was widespread, and detainees were systematically tortured. The 1991 release of 300 prisoners from secret centres had raised hopes of an improvement in the situation but it had, in fact, worsened. Those released had been subjected to constant intimidation and threats and hundreds of other people had disappeared. He gave the example of the case of Mohamed Daddach who although his sentence had been commuted to life imprisonment in 1994, continued to be held on death row in Kénitra prison.

52. An independent commission of inquiry should be set up to look into the situation of arbitrary detention and enforced disappearances in Western Sahara.

53. Ms. VALIÑA (Centre for Justice and International Law) said that human rights and the system for protecting them were designed to combat the arbitrary exercise of power and international standards applied to all forms of deprivation of liberty, particularly detention and imprisonment. Those terms were not always used precisely; in recent years, the term "detention" had been used generically to mean any deprivation of liberty. Article 9 of the International Covenant on Civil and Political Rights protected both detainees and prisoners. The Working Group on Arbitrary Detention had thus to take account of all possible forms of arbitrary deprivation of liberty. Its mandate should be renewed and interpreted as broadly as possible.

54. The draft basic principles and guidelines on the right to reparation for victims of gross violations of human rights and humanitarian law (E/CN.4/Sub.2/1996/17) should be adopted as soon as possible. They covered a variety of situations, envisaged different types of reparation, both monetary and symbolic and gave a fuller description of the right to reparation previously mentioned in various international instruments.

55. Her organization also supported the work of the Special Rapporteur on questions relevant to torture. She hoped that the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment would be speedily completed and adopted.

56. Mr. WAREHAM (International Association against Torture) said that the media attention focused on the audacious action of the Tupac Amaru Revolutionary Movement (MRTA) in Peru had missed the key point that political prisoners in Peru endured inhumane prison conditions. No progress had been made in correcting those conditions, especially since the Government had passed its anti-terrorism law.

57. In the United States of America, the enactment of more draconian legislation had increased the number of prisoners and worsened prison conditions, particularly for political prisoners and prisoners of war. Members of minority groups who fought for human rights were incarcerated as political prisoners. The United States Supreme Court had undermined constitutional guarantees by allowing police to use prior traffic violations as an excuse to stop drivers when they lacked evidence of criminal activity. Blacks and Hispanics, who constituted the majority of the prison population, were clearly targeted by that policy. Members of those two groups were also subject to summary and arbitrary executions by police officers, who were rarely prosecuted.

58. Also of concern was the counter-terrorism legislation passed in 1996, which limited the number of legal appeals for death-row prisoners and required the detention and deportation of non-citizens (including lawful permanent residents) who had been convicted of any crime, however minor.

59. Mr. TEITELBAUM (American Association of Jurists) said, with respect to the information on Argentina provided in the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1997/34, paras. 51-58), that a group of grandmothers of children who had disappeared had filed a criminal complaint against members of the armed forces in December 1996. However, only the Public Prosecutor could decide whether to act on the complaints lodged and

was therefore able to obstruct criminal proceedings. Argentine penal procedure thus departed from the international human rights instruments which guaranteed the right to an effective remedy for acts violating fundamental rights.

60. As indicated in the report of the Special Rapporteur on the independence of judges and lawyers (E/CN.4/1997/32, para. 153), the Peruvian Government had not deigned to answer inquiries about the lawyer Margarita Chuquiuru Silva, who had been sentenced, without evidence, to 20 years' imprisonment for alleged links with terrorist groups. In Peru, lawyers were imprisoned for representing those accused of terrorism before the courts, in compliance with their professional duty in the cause of justice, such as Saavedra Marreros, who had been sentenced to 10 years' imprisonment by a military tribunal. The Working Group on Arbitrary Detention should reexamine the case of Saavedra Marreros.

61. The World Bank's programmes on the judiciary, mentioned in paragraph 22 of the report of the Special Rapporteur on the independence of judges and lawyers, completely disregarded human rights issues and undermined the independence and impartiality of the judiciary since their acknowledged aim was to train judicial personnel who were ideologically committed to the market economy and free enterprise.

62. The Special Rapporteur on freedom of opinion and expression should analyse how that right was seriously undermined by the monopoly of the mass media by conglomerates in the information, electronics, tobacco and weapons industries. The Working Group on Arbitrary Detention should visit the United States to investigate the situation of the thousands of imprisoned illegal immigrants who awaited deportation, sometimes for years.

63. Mr. BAH (International Federation of Human Rights Leagues) said that the mandate of the Working Group on Arbitrary Detention should be renewed unchanged, even though it had wrongly decided to suspend consideration of communications relating to China pending a visit to that country. The term "arbitrary" was the key element of that mandate, which should cover cases of both pre-trial and post-trial detention.

64. The rights to freedom of opinion and expression, association and circulation, due process and physical integrity were being persistently violated in Tunisia, with complete impunity. A great many political prisoners were victims of torture or of cruel, inhuman or degrading treatment. The actions of human rights defenders, who were kept under close surveillance were systematically hampered. The Tunisian authorities must be urged to respect the international instruments they had ratified and the recommendations of the Human Rights Committee, and the Commission should condemn their human rights violations.

65. Each year, the Committee of Soldiers' Mothers of Russia received thousands of complaints alleging that young conscripts in the Russian Federation suffered from physical and psychological torture by officers and veteran soldiers. Investigations were compromised by the fact that they were

conducted by the officers themselves. The Russian Federation was a party to the Convention against Torture and the Russian Government should implement the recommendations addressed to it by the Committee against Torture.

66. His organization was concerned about the retention of emergency legislation in Northern Ireland which imposed severe restrictions and about the pressures, including death threats, which the police brought to bear on lawyers.

67. Mrs. de SORIA (Commission of the Churches on International Affairs of the World Council of Churches) said that a report prepared by the Secretary-General pursuant to a Commission resolution referred specifically to the case of her husband, a Spanish national who had been murdered by the Chilean Directorate of National Intelligence (DINA) during the dictatorship of General Pinochet, and indicated that the Chilean Government was to inform the Secretary-General of the outcome of the case for subsequent transmission to Member States.

68. At the time of his death in July 1976, Carmelo Soria had been employed as an international civil servant by the United Nations Economic Commission for Latin America and the Caribbean (ECLAC). The DINA personnel responsible for kidnapping, torturing and killing him had been identified in 1992. Since then, the Supreme Court had upheld (most recently in August 1996) the military court's ruling that the perpetrators were covered by the Chilean Amnesty Act of 1978, on the grounds that Mr. Soria's employment status had not qualified him for protection under the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, despite the fact that ECLAC had certified in 1994 that Mr. Soria had been an international civil servant.

69. The Secretary-General had made a statement concerning the case in December 1994 and, following the latest Supreme Court ruling, ECLAC had issued a statement referring specifically to the 1973 Convention.

70. Ms. SALERNO (Centre Europe-Tiers Monde) said that the human rights situation in Turkey continued to be alarming: numerous associations, newspapers and magazines had been banned, hundreds of journalists had been fined or imprisoned, and 179 people had been summarily executed or had died in detention. Torture was systematically practised by the police in Turkey. She gave the example of 16 young students who had been given extremely harsh jail sentences for belonging to illegal organizations, despite the fact that the trial of the policemen accused of torturing them had not yet ended. It was clear, therefore, that the Turkish courts took no account of the circumstances in which confessions were extracted.

71. The Turkish authorities obviously did not have the political will to adopt the necessary legislative and administrative measures to pursue human rights violators. Turkey was not a party to either of the International Covenants on Human Rights. The appointment of a Minister for Human Rights in 1991 had proved ineffective, as had calls by the then Prime Minister, for the removal of instruments of torture from police stations and the recommendations of the Committee against Torture in 1993 had still not been followed up.

72. She therefore called upon the Commission to adopt a resolution whereby the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on questions relevant to torture and the Special Rapporteur on the independence of judges and lawyers would investigate the situation in Turkey.

73. Mr. CHOUDRY (International Human Rights Association of American Minorities) said that the investigative role of the Working Group on Arbitrary Detention was particularly significant in relation to countries like India, whose record in Jammu and Kashmir was abysmal. He urged the Working Group to investigate all the cases specified in the writ of habeas corpus lodged with the High Court of Jammu and Kashmir, copies of which were available to the members of the Commission.

74. The Special Rapporteur on questions relevant to torture, continued to receive information indicating that the Indian Armed Forces in Jammu and Kashmir were systematically torturing detainees to extract information and confessions. One of the latest victims was Ghulam Rasool Dar, who had addressed the Commission at its fifty-second session. He had been hospitalized following a severe beating by members of the Border Security Force, who had also reportedly beaten his wife and sons.

The meeting rose at 5.20 p.m.